

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**KENNETH A. PIRNIE,**

**Plaintiff,**

**V.**

**CATHER & SONS CONSTRUCTION, INC.,**

**Defendant.**

**4:05CV3266**

## ORDER

This matter is before the court on Defendant Cather & Sons Construction, Inc.'s Motion to Compel (Filing No. 58). After reviewing the evidence submitted by Cather & Sons Construction, Inc. and the pleadings contained in the court's file, the court finds that the parties entered into a Stipulation (Filing No. 40) on August 8, 2006, whereby the plaintiff consented to the issuance of a subpoena on Veteran's Administration of Nebraska. The court further finds that a subpoena (dated August 24, 2006) was served on Veteran's Administration of Nebraska and the Veteran's Administration of Nebraska indicated that it would not produce the records without a court order. Finally, the Court finds that counsel for Cather & Sons Construction, Inc. and Veteran's Administration of Nebraska made sincere attempts to resolve this dispute pursuant to Local Rule 7.1. Under the circumstances of this case, the defendant's motion to compel should be granted. Accordingly,

**IT IS ORDERED:**

1. Cather & Sons Construction, Inc.'s Motion to Compel (Filing No. 58) is granted.
2. The Veteran's Administration of Nebraska is to produce any and all medical records for Kenneth A. Pirnie as directed by the August 24, 2006 subpoena.

Dated this 29th day of August, 2006.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge